

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 26 2004

OFFICE OF  
MANAGING DIRECTOR

Harry A. Solomon, Esq.  
Garvey Schubert Barer  
1000 Potomac St., N.W.  
Fifth Floor  
Washington, D.C. 20007-3501

Re: WTVA, Inc., Licensee of KTFL(TV),  
Flagstaff, AZ  
Request for Reduction of FY 2003 Regulatory Fees  
Fee Control No. 0309098835424009

Dear Mr. Solomon:

This is in response to your request dated September 5, 2003, filed on behalf of WTVA, Inc., for reduction of the fiscal year (FY) 2003 regulatory fee for KTFL(TV). Our records reflect that the station paid a FY 2003 regulatory fee of \$4,450.00.

In your request, you assert that the regulatory fee for KTFL(TV), which is included in the Phoenix (Prescott), Arizona Designated Market Area (DMA) (the 16th largest DMA in the nation<sup>1</sup>), should be reduced from \$43,225.00 to \$4,450.00, which is the regulatory fee for stations located in market numbers 101 and higher (i.e., "remaining market" stations), given the limited coverage of the station's signal. You state that KTFL(TV) is located in Flagstaff, Arizona, which "is approximately 130 miles from the Phoenix-Mesa Metro market and in an entirely different geographic area[.]" and that the station broadcasts from a site at Mormon Mountain, which is located in the Coconino National Forest. You state that the station's Grade B coverage contour does not include any portion of Phoenix, the principal city in the DMA. You state that although Prescott is within the station's predicted Grade B contour, "suitable off-the-air signal reception from KTFL is blocked by mountainous terrain[.]" You state that KTFL(TV) is not carried on a cable system or multi-channel video system within the DMA and that the signal is not rebroadcast by any TV translators. You state that 2003 "[c]ensus data confirm that KTFL's coverage contour population is 283,452, representing 103,450 TV Households or about 18.1 percent of the Phoenix DMA's 570,850 TV Households . . .[.] far below the total count for the market." In addition, you state that KTFL(TV) is not affiliated with a network.

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<sup>1</sup> Stations in market number 16 cover 1,524,130 television households. *2003 Television and Cable Factbook* at C-40.

The Commission has set standards for determining whether the regulatory fees for a television station may be reduced below the fees assessed for stations in the relevant DMA. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12763 (1995). The Commission will reduce fees for television stations having certain characteristics. *Id.* Such a station must be located outside the metropolitan area of the principal city in the assigned DMA and may not provide a Grade B signal to a substantial portion of the assigned market's metropolitan areas. *Id.* Stations that meet these criteria and request fee reductions will be assessed regulatory fees based on the number of households they serve; stations that serve fewer television households than are in the top 100<sup>th</sup> market will be assessed the regulatory fee for remaining market stations. *Id.*

We find that because KTFL(TV) is located outside the metropolitan area of the principal city in its assigned DMA and does not provide a Grade B signal to a substantial portion of its market's metropolitan area, KTFL(TV) has met the Commission's standards, as set forth above, for reduction of the station's regulatory fee for FY 2003. In the absence of Nielsen data reflecting the number of television households covered by KTFL(TV),<sup>2</sup> our review of the record reflects that KTFL(TV)'s Grade B contour covers 103,450 television households and thus serves fewer households than a station in the top 100<sup>th</sup> market.<sup>3</sup> We therefore find that it is appropriate that KTFL(TV) be treated as comparable to a VHF commercial station in the remaining markets and be subject to a \$4,450.00 regulatory fee for FY 2003.<sup>4</sup>

Accordingly, we grant your request to treat KTFL(TV) as comparable to a VHF commercial station in the remaining markets subject to a \$4,450.00 regulatory fee for FY 2003. For purposes of regulatory fee assessments in subsequent years, and absent significant changes in the factual situation, KTFL(TV) will not be treated as a station in the Phoenix (Prescott), Arizona DMA. KTFL(TV) will be required to submit the regulatory fee for VHF commercial stations in the remaining markets. You should note that KTFL(TV) is under a continuing obligation to report to the Commission any changes in its operations that could affect its qualification for a regulatory fee reduction. You should retain this letter and submit a copy of it with any future correspondence with the Commission concerning the regulatory fee for KTFL(TV).<sup>5</sup>

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<sup>2</sup> Nielsen does not report data reflecting the number of households served by KTFL(TV). *See id.* at A-77.

<sup>3</sup> Stations in market number 100 cover 277,760 television households. *Id.* at C-40.

<sup>4</sup> *See* C.F.R. §1.1153.

<sup>5</sup> In view of this holding, we need not reach your additional request that full payment be deferred because of financial hardship.

In summary, we grant your request to treat KTFL(TV) as comparable to a VHF commercial station in the remaining markets subject to a \$4,450.00 regulatory fee for FY 2003. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger  
Chief Financial Officer

GS  
S  
B

SEATTLE OFFICE  
eighteenth floor  
second & seneca building  
1191 second avenue  
seattle, washington 98101-2989  
TEL 206 464 3939 FAX 206 464 0125

OTHER OFFICES  
new york, new york  
portland, oregon  
washington, dc  
GSBLAW.COM

GARY L. CHURCH & LARRY

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

0309098835424009

Please reply to HENRY A. SOLOMON  
hsolomon@gsblaw.com TEL (202) 298-2529

September 5, 2003

Our File Number 20886-00104-61

Federal Communications Commission  
Attention: Petitions  
Post Office Box 358835  
Pittsburgh, Pennsylvania 1521-5835

Reference: *Petition for Reduction of Regulatory Fee and For Related Relief*

Ladies and Gentlemen:

Submitted herewith on behalf of WTVB, Inc., licensee of KTFL (TV), Flagstaff, Arizona, are the following:

1. FCC Form 159 and Regulatory Fee check for \$4,450.
2. Original and four (4) copies of a "Petition for Reduction of Regulatory Fee and For Related Relief."

The Petition contains a request for waiver and deferral of the requirement in 47 C.F.R. § 1.1166 (d) that the full Regulatory Fee be tendered by the regulatee requesting reduction thereof.

WTVB, Inc., seeks classification as a Remaining Market Station and is tendering the Regulatory Fee assessed against such licensees.

If there are any questions concerning this matter, please communicate with the undersigned.

Respectfully submitted,

WTVB, INC.

By:

  
Henry A. Solomon  
Its Attorney

Enclosures

cc: Mr. Frank K. Spain (w/ encl.)

DC\_DOCS:612505.1

READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDINGFEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICEApproved by OMB  
3060-0539

Page No 1 of 1

(1) LOCKBOX #

358836

SPECIAL USE

FCC USE ONLY

## SECTION A - PAYER INFORMATION

(2) PAYER NAME (If paying by credit card, enter name exactly as it appears on your card)

WTVA, Inc.

(3) TOTAL AMOUNT PAID (U.S. Dollars and cents)  
\$4,450.00

(4) STREET ADDRESS LINE NO. 1

c/o Garvey Schubert Barer

(5) STREET ADDRESS LINE NO. 2

1000 Potomac Street, NW, 5th Floor

(6) CITY

Washington

(7) STATE

DC

(8) ZIP CODE

20007

(9) DAYTIME TELEPHONE NUMBER (include area code)

(202) 965-7880

(10) COUNTRY CODE (if not in U.S.A.)

## FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(11) PAYER (FRN)

0001-7453-89

(12) PAYER (TIN)

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B.  
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

(13) APPLICANT NAME

(14) STREET ADDRESS LINE NO. 1

(15) STREET ADDRESS LINE NO. 2

(16) CITY

(17) STATE

(18) ZIP CODE

(19) DAYTIME TELEPHONE NUMBER (include area code)

(20) COUNTRY CODE (if not in U.S.A.)

## FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(21) APPLICANT (FRN)

(22) APPLICANT (TIN)

## COMPLETE SECTION C FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID

KTFL

(24A) PAYMENT TYPE CODE

0357

(25A) QUANTITY

1

(26A) FEE DUE FOR (PTC)

(27A) TOTAL FEE

4,450.00

FCC USE ONLY

(28A) FCC CODE 1

74149

(29A) FCC CODE 2

AZ, Flagstaff

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (PTC)

(27B) TOTAL FEE

FCC USE ONLY

(28B) FCC CODE 1

(29B) FCC CODE 2

## SECTION D - CERTIFICATION

(30) CERTIFICATION STATEMENT

I, Robert M. Ledbetter

certify under penalty of perjury that the foregoing and supporting information is true and correct to

(the best of my knowledge, information and belief)

SIGNATURE

DATE September 5, 2003

## SECTION E - CREDIT CARD PAYMENT INFORMATION

(31)

☐ MASTERCARD

MASTERCARD/VISA ACCOUNT NUMBER:

EXPIRATION

☐ VISA

I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.

SIGNATURE

DATE

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

In re

WTVA, INC. [KTFL (TV)]

Request for Permanent Reduction  
 Of Regulatory Fee & Related Relief

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)

Fee Control No.

To: Office of Managing Director

**PETITION FOR REDUCTION OF REGULATORY FEE AND FOR  
 RELATED RELIEF**

WTVA, Inc. ("WTVA"), by its attorneys, respectfully files this Petition for Reduction of Regulatory Fee and for Related Relief. In support hereof the following is shown:

**I. BACKGROUND**

WTVA is the licensee of KTFL (TV), Channel 4, Flagstaff, Arizona ("KTFL"). Flagstaff is located approximately 130 miles northwest of Phoenix and is within the newly-designated Phoenix (Prescott) DMA ranked 16<sup>th</sup> by Nielsen.<sup>1</sup> Television stations licensed to that DMA would ordinarily pay a FY 2003 Regulatory Fee of \$43,225. By contrast, a "Remaining Market" station's current Regulatory Fee is \$4,450. WTVA respectfully requests that it be classified as a remaining market station. WTVA will demonstrate herein that KTFL has all applicable characteristics of a remaining market outlet and should be so classified.

<sup>1</sup> See, however, 47 C.F.R. § 76.51, which designates the market as Phoenix-Mesa. Until recently, Nielsen identified the DMA as Phocnix. For purposes of this Petition Phocnix-Mesa will be considered as the DMA's principal metropolitan area.

## **II. KTFL SHOULD BE CLASSIFIED AS A REMAINING MARKET STATION**

### **A. The Applicable Standards.**

The Commission has set standards for determining whether the regulatory fees for a television station may be reduced below the fees assessed for stations in the relevant DMA. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12763 (1995).<sup>2</sup> If a station meets those standards and requests a fee reduction, the Commission will designate that station a remaining market station. The standards are as follows:

- The station is not affiliated with a major network.
- ◆ The station is located outside of the metropolitan area of the principal city in the assigned DMA.
- ◆ The station does not provide a Grade B signal to a substantial portion of the assigned market's metropolitan areas.
- ◆ The station serves fewer television households than are in the top 100 market.

### **B. KTFL Has Satisfied the FCC's Legal Standards for Relief.**

(1) *No Affiliation.* KTFL is an independent station. It carries programming produced by The Family Channel and has no plans or prospects for an affiliation with a national network.

(2) *Station Location.* KTFL broadcasts from a site at Mormon Mountain, which is located in the Coconino National Forest, Flagstaff, which is the "Gateway" to the Grand Canyon, is approximately 130 miles from the Phoenix-Mesa Metro market and in an entirely different geographic area. For the Commission's ready reference Exhibit A hereto is an Arizona

<sup>2</sup> See also Dec. 17, 1999 letter from Office of Managing Director to Kenneth E. Satten, Esq., *In the Matter of Request for Waiver and Reduction of Regulatory Fee for KCSG (TV)* (Fee Control No. 980921883522001) (Waiver granted to station licensed to Cedar City, UT, located in 36<sup>th</sup> market, Salt Lake City, UT).

map segment from the 1998 *National Geographic Road Atlas*, depicting the relationship between Flagstaff and the Phoenix-Mesa area.

(3) *Grade B Coverage.* Exhibit B hereto is a copy of KTFL's coverage contour map from the 2003 edition of *TV Factbook*. When reviewed in conjunction with Exhibit A, it is readily seen that the station's Grade B coverage contour does not include any portion of Phoenix, the principal city in the assigned DMA. Prescott (pop. 38,938),<sup>3</sup> the market's newly-designated secondary city, is hardly classifiable as a "metropolitan area" for purposes of this analysis. It is located approximately 100 miles NW of Phoenix. See Exh. A. Although it is within KTFL's predicted Grade B contour, suitable off-the-air signal reception from KTFL is blocked by mountainous terrain-- in particular, by the Munds Mountain Wilderness Area in which elevations range from 3,600 feet to 6,825 feet on Munds Mountain itself.<sup>4</sup> Nor does KTFL enjoy carriage on Prescott's substantial cable system,<sup>5</sup> or for that matter, *on any cable system or multichannel video system within the DMA.*<sup>6</sup>

(4) *TV Households.* According to the 2000 U.S. Census the average number of persons per household in Arizona is 2.74. Census data confirm that KTFL's coverage contour population is 283,452, representing 103,450 TV Households or about 18.1% of the Phoenix DMA's 570,850 TV Households.<sup>7</sup> Thus KTFL's TV Household figure is far below the total count for the market.

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<sup>3</sup> Source: 2000 U.S. Census for City of Prescott.

<sup>4</sup> See [www.backpacker.com/places/0,62678,43100.html](http://www.backpacker.com/places/0,62678,43100.html).

<sup>5</sup> According to *Television and Cable Factbook* (p. D-71, 2003 ed.), the Prescott cable system serves 31,340 subscribers.

<sup>6</sup> Nor is the signal rebroadcast by any TV translators. Although EchoStar and DIRECTV offer local-into-local service in the DMA, KTFL is not distributed by either carrier because it has not been able to deliver acceptable quality signals to their local receive facilities.

<sup>7</sup> The 2003 *TV Factbook* specifies 1,564, 130 as the population of the Phoenix DMA. Comparable data are not given for the "Phoenix (Prescott)" DMA.



The foregoing facts confirm that WTVA has met, without exception, its burdens under the Commission's standards for remaining market eligibility for KTFL.

### **III. WAIVER AND DEFERRAL REQUEST**

WTVA respectfully requests a waiver and deferral of the requirement in 47 C.F.R. § 1.1166 (d) that petitions for fee reduction must be accompanied by a "full fee payment and Form 159."

WTVA is tendering concurrently herewith (*see Exhibit C*) a Form 159 and a check for \$4,450, which is the current regulatory fee for remaining market stations. WTVA requests deferral of payment of the full fee of \$43,225, which would be due if the Commission declines to grant the instant Petition (but would be refunded upon affirmative action). To pay that substantial fee at this time would exacerbate the severe financial hardship that KTFL has been experiencing since it went on the air in early 2000.<sup>8</sup>

Exhibit D hereto contains supporting economic data, a *pro forma* Profit and Loss Statement for KTFL showing that the station was unprofitable during the period October 1, 2002 through the end of last month. It is to be noted that the Commission's records in connection with KTFL-DT's several extension applications fully document the fact that KTFL consistently sustained operating losses since it started broadcasting.

### **IV. CONCLUSION**

KTFL has met the criteria for regulatory fee reduction and for treatment as a remaining market station. Accordingly, it respectfully requests the Commission to grant this Petition in its entirety.

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<sup>8</sup> Relying on financial hardship showings similar to the one tendered herewith, the Commission has approved several extensions of KTFL-DT's build-out deadlines. Construction of KTFL-DT, which must be completed by the end of this month, will require a capital investment of approximately \$ 800,000, to be funded by an intracorporate funds transfer.

Respectfully submitted,

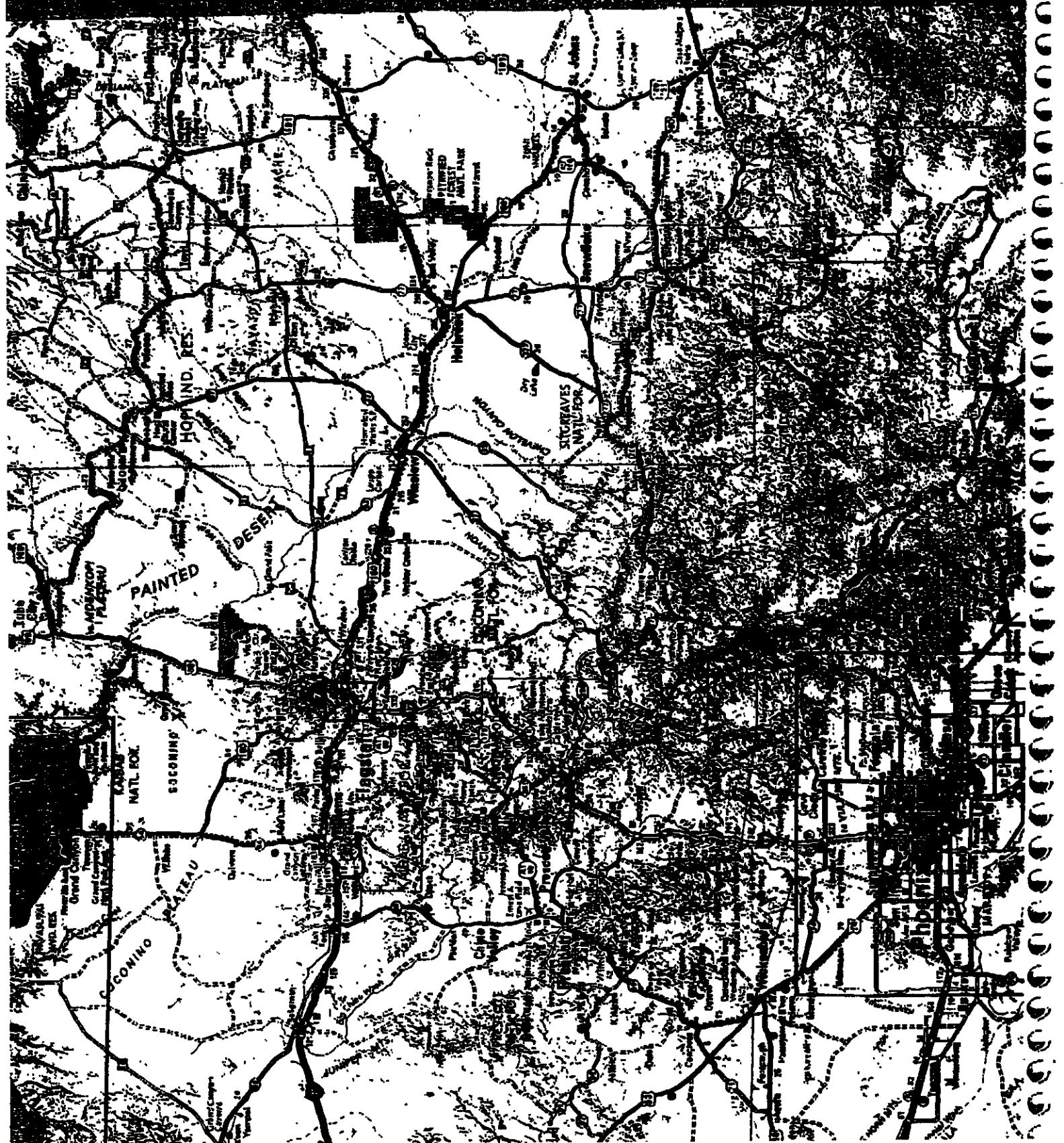
WTVA, INC. [KTFL (TV)]

By 

Henry A. Solomon  
Its Attorney

Garvey Schubert Barer  
1000 Potomac Street, N.W. Fifth Floor  
Washington, DC 20007-3501  
Telephone: 202.965.7880  
Telecopier: 202.965.1729  
E-mail: [hsolomon@gsblaw.com](mailto:hsolomon@gsblaw.com)  
September 3, 2003

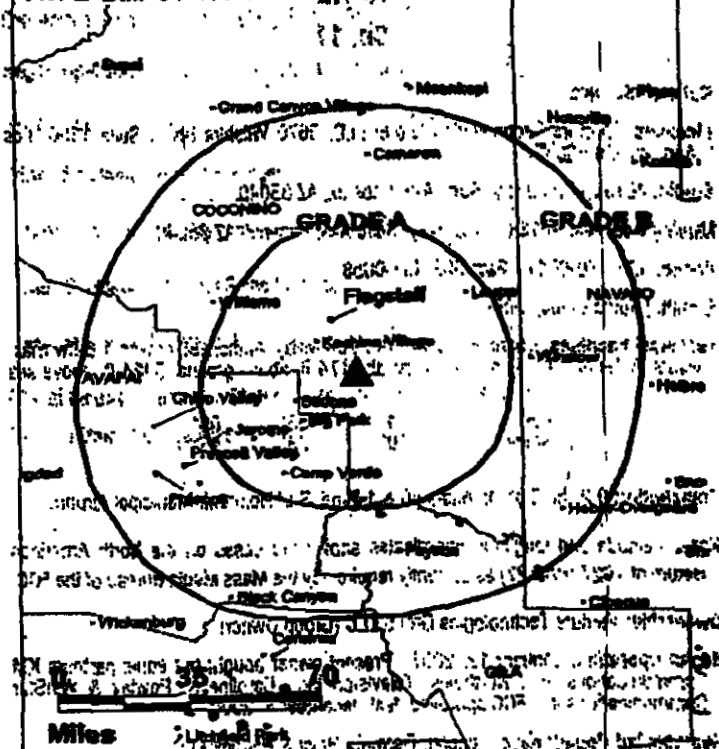
NA



## En 4

ਮੁਕਤੀ, ਖੇਡ ਖੇਡਾਂ ਦੇ ਆਲੇ ਦੁਆਰਾ

KTFL BMPCT-19900912KF GRANTED: 3/1/1996



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**Nielsen Data: Not available.**

EXHIBIT "B"

09/06/2003 02:32 WTUR/WLOU/WKDH → 12029651729

09/05/03 FRI 10:24 FAX 2029651729

GARVEY SCHUBERT

EXHIBIT C

NO. 013 0002

READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING		FEDERAL COMMUNICATIONS COMMISSION REMITTANCE ADVICE		Approved by OMB 3060-0589 Page No 1 of 1	
(1) LOCKBOX # 358835		SPECIAL USE		FCC USE ONLY	
SECTION A - PAYER INFORMATION					
(2) PAYER NAME (If paying by credit card, enter name exactly as it appears on your card) WTVA, Inc.			(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$4,450.00		
(4) STREET ADDRESS LINE NO. 1 c/o Garvey Schubert Barer					
(5) STREET ADDRESS LINE NO. 2 1000 Potomac Street, NW, 5th Floor					
(6) CITY Washington			(7) STATE DC	(8) ZIP CODE 20007	
(9) DAYTIME TELEPHONE NUMBER (include area code) (202) 965-7880			(10) COUNTRY CODE (if not in U.S.A.)		
FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED					
(11) PAYER (FRN) 0001-7452-89			(12) PAYER (TIN)		
IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)					
(13) APPLICANT NAME					
(14) STREET ADDRESS LINE NO. 1					
(15) STREET ADDRESS LINE NO. 2					
(16) CITY			(17) STATE	(18) ZIP CODE	
(19) DAYTIME TELEPHONE NUMBER (include area code)			(20) COUNTRY CODE (if not in U.S.A.)		
FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED					
(21) APPLICANT (FRN)			(22) APPLICANT (TIN)		
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(23A) CALL SIGN/OTHER ID KTFL		(24A) PAYMENT TYPE CODE 0357		(25A) QUANTITY 1	
(26A) FEE DUE FOR (PTC)		(27A) TOTAL FEE 4,450.00		FCC USE ONLY	
(28A) FCC CODE 1 74149		(29A) FCC CODE 2 AZ, Flagstaff			
(23B) CALL SIGN/OTHER ID		(24B) PAYMENT TYPE CODE		(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)		(27B) TOTAL FEE		FCC USE ONLY	
(28B) FCC CODE 1		(29B) FCC CODE 2			
SECTION D - CERTIFICATION					
(30) CERTIFICATION STATEMENT I, Robert M. Ledbetter, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.					
SIGNATURE <i>Robert M. Ledbetter</i> DATE <i>September 5, 2003</i>					
SECTION E - CREDIT CARD PAYMENT INFORMATION					
(31) <input type="checkbox"/> MASTERCARD		MASTERCARD/VISA ACCOUNT NUMBER: [REDACTED]		EXPIRATION [REDACTED]	
<input type="checkbox"/> VISA		I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.			
SIGNATURE		DATE			

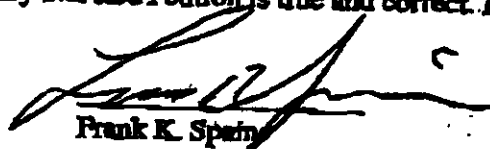
**DECLARATION**

Frank K. Spain declares and states as follows:

I am president of WTVA, Inc., licensee of KTFE (TV), Flagstaff, Arizona.

I have reviewed the foregoing Petition for Reduction of Regulatory Fee and or  
Related Relief.

I declare under penalty of perjury that said Petition is true and correct. Executed  
on September 3, 2003.

  
Frank K. Spain



Payment Search Detail

Fee Control Number	Payor Name	Payment Amt	Overage Amt		Credit Card Info
0004208150103001	HELEIN & ASSOCIATES PC	\$630.00	\$0.00		Payor Info
0309090835424009	WTVA INC	\$4,450.00	\$0.00		Bad Check Info
0309178035037004	M B COMMUNICATIONS INC	\$950.00	\$0.00		Changer Info
9504128315346003	ALARIS INC	\$845.00	\$0.00		Acct Info
9508148190573002	ROUGH RIDER BROADCASTING	\$230.00	\$0.00		
9604098145580003	TIMCO ENGINEERING INC	\$180.00	\$0.00		<input checked="" type="checkbox"/> Also Show JV'd transactions

Sequence	Quantity	Payment Type Code	Payment Amount	Trans Code	Call Sign Other Id	Treasury Symbol	More to Unapplied
1	1	0357	\$4,450.00	PMT	KTFL	27X6D88	FCC Code Info
							Applicant Info
							Treasury Info
							Modify Payment
							Close

Print Screen

CD No.	CD DATE	FEE CONTROL No.	FRN	PAYER NAME	TRANSACTION DATE	RECEIPT AMOUNT
560799	9/09/03	0309098835424009	0001745389	WTVA, Inc.	9/08/03	\$4,450.00
Seq: 1 Call Sign: KTFL FCC Code 1: 74149 FCC Code 2: AZFLAGSTAFF Tin Number:						
PTC: 0357 QTY: 1 Applied Amt: 4450 00						
Applicant Name: WTVA INC						
Address: 1000 POTOMAC STREET NW						
Total:				\$4,450.00		